

**LAND SOUTH OF
WARTON RECREATION GROUND,
ORTON ROAD, WARTON**

**AGRICULTURAL EVIDENCE
ON BEHALF OF
THE APPELLANT
BY**

TONY KERNON BSc(Hons) MRICS FBIAC

VOLUME 1: TEXT

LPA Reference: PAP/2025/0155

PINS Reference: APP/R3705/W/25/3371526

November 2025





**LAND SOUTH OF
WARTON RECREATION GROUND,
ORTON ROAD, WARTON**

**AGRICULTURAL EVIDENCE
ON BEHALF OF
THE APPELLANT
BY
TONY KERNON BSc(Hons) MRICS FBIAC**

VOLUME 1: TEXT

**LPA Reference: PAP/2025/0155
PINS Reference: APP/R3705/W/25/3371526**

November 2025

COPYRIGHT

The contents of this document must not be copied in whole or in part without the written consent of Kernon Countryside Consultants.

Authorised By APK 11/25

*Greenacres Barn, Stoke Common Lane, Purton Stoke, Swindon SN5 4LL
T: 01793 771333 Email: info@kernon.co.uk Website: www.kernon.co.uk*

*Directors - **Tony Kernon** BSc(Hons) MRAC MRICS FBIAC **Sarah Kernon**
Consultants - **Ellie Clark** BSc(Hons) MBIAC **Dan Miller** BSc(Hons)*

CONTENTS

Volume 1: Text

- 1 Introduction to the Witness
- 2 Introduction to the Evidence
- 3 The Site and Its Use
- 4 Planning Policy of Relevance
- 5 The Reason for Refusal and Policies Referred To
- 6 The Economic and Other Benefits
- 7 Significant Development and Land Quality Considerations
- 8 Summary and Conclusions

Volume 2: Appendices

- KCC1 Curriculum Vitae
- KCC2 Natural England's Technical Information Note TIN049
- KCC3 Extracts from the Nix Farm Management Pocketbook
- KCC4 Guide to Assessing Development Proposals on Agricultural Land (Natural England)

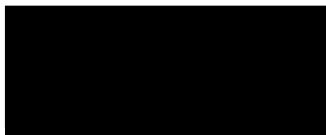
Volume 3: Summary of Proof

1 INTRODUCTION TO THE WITNESS

The Witness

- 1.1 This evidence has been prepared by Tony Kernon. I am a Chartered Surveyor and a Fellow of the British Institute of Agricultural Consultants. I have specialised in assessing the effects of development proposals on agricultural land for over 35 years, and act nationwide for local planning authorities and applicants alike across England and Wales.
- 1.2 As part of preparing this written evidence I have reviewed the relevant application material, visited the site and inspected the land and soils, and interviewed the farmers.
- 1.3 My Curriculum Vitae is at **Appendix KCC1**. As a Chartered Surveyor giving evidence, I am bound by the RICS Practice Statement “Surveyors Acting as Expert Witnesses”, 4th Edition (February 2023). A declaration is provided below.
- 1.4 In accordance with the requirements of the Royal Institution of Chartered Surveyors Practice Statement, “Surveyors acting as expert witnesses” (4th edition, amended 2023):
- (i) I confirm that my report has drawn attention to all material facts which are relevant and have affected my professional opinion.
 - (ii) I confirm that I understand and have complied with my duty to this Appeal as an expert witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.
 - (iii) I confirm that I am not instructed under any conditional or other success-based fee arrangement.
 - (iv) I confirm that I have no conflicts of interest.
 - (v) I confirm that my report complies with the requirements of the Royal Institution of Chartered Surveyors (RICS), as set down in “*Surveyors acting as expert witnesses*”: RICS practice statement (2023).

Signed:



(Tony Kernon)

Dated: 4th November 2025

2 INTRODUCTION TO THE EVIDENCE

The Proposals

- 2.1 The proposed development is for residential development to the west of Warton. The parcel of land comprises a single arable field between Orton Road and Church Road, west of the Recreation Ground and west of the recent Cornfields housing development. The Site is outlined in red on the Google Earth image below (2025 image).

Insert 1: The Site (edged red)



The Reasons for Refusal

- 2.2 The Appeal was submitted due to the non-determination of the application by the Council.
- 2.3 However, at a Planning Committee on 6th October 2025 the Committee accepted the recommendation of planning officers and identified the reasons that they would have given had the matter not been remitted to the Planning Inspectorate.
- 2.4 Paragraphs 8.22 to 8.24 of the officer report set out that the development would result in the loss of land of the Best and Most Versatile quality (BMV), contrary to policy. Twice reference is made to the importance of food production set by Government, but as I will explain in my evidence the officer has set out old policy which is not in the National Planning Policy Framework 2024 (NPPF), as is stated.

2.5 The recommendation, accepted by Committee, is that the application should be refused for, inter alia:

“5. The proposal would result in the permanent loss of an area of approximately 5.7 hectares of best and most versatile agricultural land. As such the application proposals would be contrary to policy LP1 of Local Plan and contrary to paragraph 187 of the National Planning Policy Framework 2024”.

This Evidence

2.6 My evidence reviews the relevant agricultural circumstances of the Site. It reviews the land quality, the soils and the agricultural use. It reviews the planning policy of relevance and the Council’s interpretation as presented to the Committee.

2.7 My evidence is structured as follows:

- (i) section 3 describes the Site, its land quality and use;
- (ii) section 4 sets out key planning policy of relevance;
- (iii) section 5 reviews the Council’s committee report and reviews the policies stated in the reason for refusal;
- (iv) section 6 considers the economic and other benefits of the BMV land within the Site;
- (v) section 7 reviews land quality in the area and the Council’s approach to other developments of good quality land locally;
- (vi) ending with a summary of the relevant considerations in section 8.

3 THE SITE AND ITS USE

The Site

- 3.1 The Site extends to 6.37 ha. Of this 5.6 ha is agricultural land, the rest is highway and a small area of pond (0.1 ha).
- 3.2 The agricultural land comprises a single field, accessed from the road in the southeast corner. The Site is shown in the photographs below.

Photo 1: The Site Looking Southeast from the Northern Boundary



Photo 2: The Site Looking Northeast from the Southern Boundary



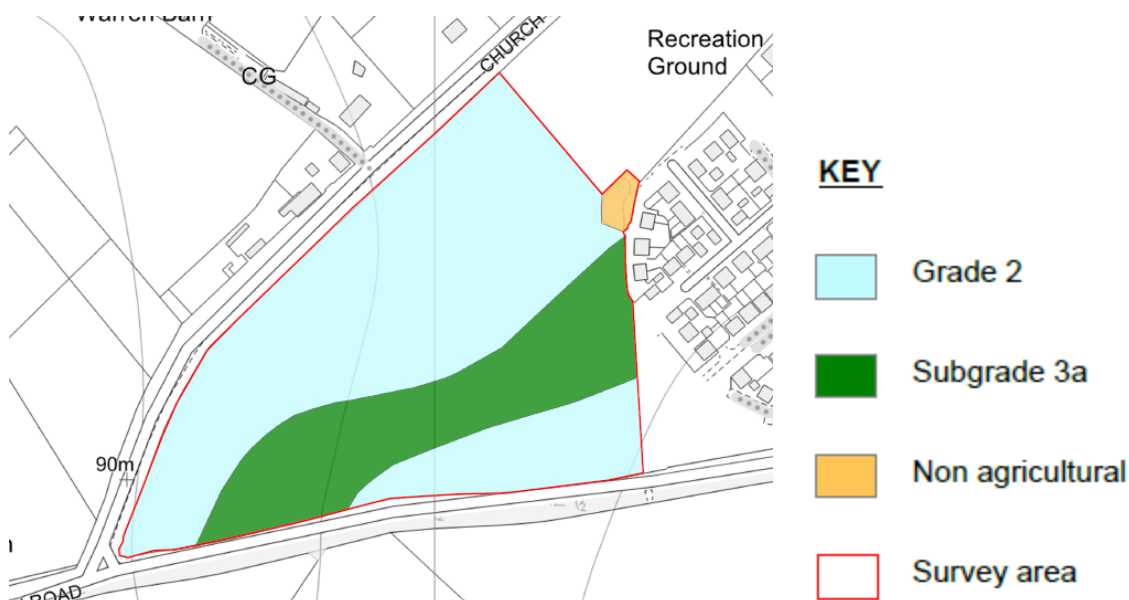
Land Quality

- 3.3 Agricultural land is measured under a system of Agricultural Land Classification (ALC). This grades land based on the long-term physical limitations of land for agricultural use, including climate (temperature, rainfall, aspect, exposure and frost risk), site (gradient, micro-relief and flood risk) and soil (texture, structure, depth and stoniness) criteria, and the interactions between these factors determining soil wetness, droughtiness and utility. The system is described in Natural England's Technical Information Note TIN049 (2012) (**Appendix KCC2**).
- 3.4 Land is divided into five grades, 1 to 5. Grade 3 is divided into two subgrades. Land falling into ALC Grades 1, 2 and Subgrade 3a is the "**best and most versatile**" (BMV) (as defined in the National Planning Policy Framework (2023), Annex 2). Natural England

estimate that 42% of agricultural land in England is of BMV quality (see TIN049) (**Appendix KCC2**).

- 3.5 The land quality of the Site was determined by a detailed ALC survey completed by Land Research Associates Ltd in February 2025, and submitted with the application. The distribution of grades is shown on an extract from the ALC plan at Insert 3.

Insert 2: Extract from the ALC Plan



- 3.6 The results for the Site are set out in Table 1.

Table 1: ALC Results

ALC Grade		Area (ha)	Proportion (%)
2	Very good	4.1	72
3a	Good	1.5	26
N	Non-agricultural	0.1	2
Total		5.7	100

- 3.7 The Site extends to 6.37 ha. 5.6 ha is agricultural land, not 5.7 ha as stated in putative Reason for Refusal 5. The rest of the Site is urban land, principally public highway and verges, or the pond area (0.1 ha).

Land Use and Soils

- 3.8 The soils are described in the ALC report. The majority of the Site is medium loamy soils and moderately free-draining. The Subgrade 3a is a strip of sandy clay loam, a high clay topsoil over a slowly permeable reddish clay subsoil.

3.9 The Site comprises arable land. The soils are shown in the following photographs.

3.10 The Grade 2 soils are both sandy and stoney, as shown below (illustrative pit from the northern part of the Site).

Photos 3 – 5: Illustrative Soil Pit and Top and Upper Subsoils



3.11 The Subgrade 3a soils, illustrated in the following photographs from the southwestern part of the Site, are slightly heavier and, under the ALC methodology, are limited by wetness. As shown below, the texture is very similar, but the wetness class is higher, resulting in a limitation to ALC Subgrade 3a.

Photos 6 – 8: Illustrative Soil Pit and Top and Upper Subsoils



- 3.12 The Site forms a small part of a farm that operates over approximately 280 ha (700 acres) based from Sibson, about six miles to the east. The farm is a wholly-arable enterprise, cropping cereals (usually winter wheat and winter barley) with break crops of oilseed rape or field beans.
- 3.13 The Appeal Site forms a triangular field, accessed usually from the Orton Road gateway. There are no buildings or other infrastructure on the field.
- 3.14 Fencing around the playing fields to the northeast is regularly cut and there is evidence of a degree of trespass around the eastern part of the field.

4 PLANNING POLICY OF RELEVANCE

Local Plan (2021)

- 4.1 The North Warwickshire Local Plan 2021 (September 2021) makes no reference in any policies to agricultural land quality, or the protection of land of best and most versatile quality.

The NPPF (2024)

- 4.2 The National Planning Policy Framework (NPPF) (2024), paragraph 187 notes that planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising **“the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land”**.
- 4.3 The best and most versatile (BMV) agricultural land is defined in Annex 2 of the NPPF as land which is of Grade 1, 2 and Subgrade 3a of the Agricultural Land Classification.
- 4.4 Paragraph 188 of the NPPF discusses plan making. It requires plans to, inter alia, allocate land with the least environmental or amenity value, where consistent with other policies in the Framework. Footnote 65 of the NPPF identifies that **“where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality”**.

5 THE REASON FOR REFUSAL AND POLICIES REFERRED TO

5.1 Putative Reason for Refusal 5 states:

“5. The proposal would result in the permanent loss of an area of approximately 5.7 hectares of best and most versatile agricultural land. As such the application proposals would be contrary to policy LP1 of Local Plan and contrary to paragraph 187 of the National Planning Policy Framework 2024”.

5.2 Therefore the putative Reason for Refusal references two policies:

- Local Plan policy LP1;
- NPPF paragraph 187.

Local Plan

5.3 North Warwickshire Local Plan 2021 (September 2021) policy LP1 is the catch-all sustainable development policy. It makes no reference to agricultural land and no reference to soils. The policy does not refer to protection of land of BMV quality.

5.4 The report to Committee directed members to policy LP16, not policy LP1. Paragraph 8.22 states that **“the quality, character, diversity and local distinctiveness of the natural environment will be protected and enhanced”**. This is clearly a reference to the wording of policy LP16, but that policy, in common with policy LP1, makes no reference in the policy or the text to agricultural land or soils, so it is hard to see that the policy is relevant. It is not referred to in the putative Reason for Refusal 5.

NPPF

5.5 Putative Reason for Refusal 5 refers to the NPPF (2024) paragraph 187.

5.6 Paragraph 8.22 of the report to Committee refers to NPPF paragraph 187 a) and b). These state:

“187. Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);**
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”.**

- 5.7 The officer's report to Committee did not explain to Councillors why paragraph 187 a) is considered to be relevant. Paragraph 187 a) requires protection and enhancement of **"soils in a manner commensurate with their statutory status or identified quality in the development plan"**. Soils are not referred to in the local plan, so it is not possible to conclude that paragraph 187 a) is relevant.
- 5.8 Paragraph 187 b) is referenced in the officer's report. There is no analysis in paragraphs 8.22 to 8.24, or elsewhere in the officer's report, of the economic or other benefits of BMV land. Therefore there is no evidence of any conflict with or harm to the policy.
- 5.9 Putative Reason for Refusal 5 makes no reference to the NPPF paragraph 188. Paragraph 188 is a plan making policy paragraph: it starts with **"Plans should ..."**. Footnote 65 is referenced from paragraph 188 and states:
- "⁶⁵ Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality"**.
- 5.10 Footnote 65 is not applicable to all developments. It is only applicable where **"significant development of agricultural land"** is necessary. The officer report at 8.23 states that **"this development would likely to lead to significant permanent loss of BMV agricultural land as a resource for future generations because the development is irreversible"**. The officer report does not provide any explanation as to why this should be considered as "significant" development just because it is irreversible.
- 5.11 Paragraph 8.22 of the officer report advises Councillors that **"the availability of land for food production should be considered alongside other policies in the NPPF, when deciding what sites are most appropriate for development – footnote 65"**. That is not the policy in footnote 65. The officer's reference is to the wording of footnote 61 of the 2023 version of the NPPF, which was in force from December 2023 to December 2024. The sentence was removed from footnote 65 in December 2024 and is not policy. The officer's report therefore incorrectly advised Councillors on current Government policy, which is a surprising error.

Conclusions

- 5.12 The officer's analysis and the putative Reason for Refusal 5 refer to different Local Plan policies. It is not, therefore, apparent which the Council seeks to rely upon. Neither refer to land quality, neither refer to soil, and neither appear to be directly relevant.

- 5.13 The putative Reason for Refusal 5 refers only to the NPPF paragraph 187, which protects soils of identified quality in the development plan, and requires that the economic and other benefits of BMV land be recognised. The Report to Committee makes no attempt to explain why the soils are to be protected, or what the economic benefits are. The report does not explain why they are considered to have been harmed to the extent that the appeal should be dismissed.
- 5.14 The officer's report goes on to advise Councillors that poorer quality land should be used in preference, without explaining how this site passes the trigger test of being "significant" development. The report then goes on to reference out-of-date footnote policy. After all of this, putative Reason for Refusal 5 makes no reference to NPPF paragraph 188, from which this analysis is referenced.
- 5.15 NPPF paragraph 187 seems to be the only policy of relevance that is referred to in the putative Reason for Refusal. The reason does not explain why the development is contrary to paragraph 187, nor does the officer's report to Committee. References in the report to Committee to Local Plan policy LP16 and NPPF paragraph 188 are not carried forward to Reason for Refusal 5, and have been applied or reported incorrectly.
- 5.16 Irrespective, my assessment now considers:
- NPPF paragraph 187 advice in section 6;
 - NPPF paragraph 188 advice in section 7.

6 THE ECONOMIC AND OTHER BENEFITS

6.1 This section considers:

- the economic and other benefits in real life;
- the economic benefits, theoretically;
- the other benefits, principally food production, theoretically;
- soils.

Actual Benefits

6.2 The Appeal Site is cropped for cereals with occasional arable break crops. Wheat, barley and field beans grown are used for animal feed, oilseed rape is used for industrial uses, so the land does not contribute directly to human food consumption.

6.3 The farmers report generally poor yields from the land. The light nature of the soil means that in years with dry springs, especially April and May, any cereal crops grown yield very poorly. Sandy soils do not, by their nature, hold water (in the way a clay or loam soil does) and this limits yields in dry spring years, of which we have had a number recently.

6.4 There will be no significant adverse impacts on any operating farm businesses, and the field represents only about 2% of the farm.

6.5 Being triangular, it is also an awkward field to farm. In the aerial image below the tramlines for machinery are clearly visible and at the northern end there is a very short run before the machine needs to turn. Modern sprayer booms are up to 36m wide, so fields of this nature are quite time-consuming to manage.

Insert 3: Aerial Image (2025)



Theoretical Economic Benefits

- 6.6 The NPPF (2024) does not prevent development of BMV land. It requires only that the economic and other benefits of BMV land be recognised.
- 6.7 There is no research available that we are aware of that seeks to analyse the productive economic advantages of BMV to non-BMV land. In the absence of any empirical data, an economic assessment is inevitably crude. Taking standard budging textbooks, such as the Nix Farm Management Pocketbook (extracts which have been reproduced in **Appendix KCC3**), it is possible to show the difference between moderate and high yields as an illustration between crops.
- 6.8 Taking that crude measure and applying it to winter wheat and oilseed rape, the differences are shown below.

Table 2. Assessment of Economic Farmed Land

Item	Winter Feed Wheat		Winter Oilseed Rape	
	Average	High	Average	High
Yield (t/ha)	8.2	9.4	3.5	4.0
Output (£)	£1,667	£1,889	£1,435	£1,640
Gross margin (£)	£988	£1,210	£825	£1,030
Uplift (£)	-	£222	-	£205

Nix Farm Management Pocketbook 2026 (September 2025)

- 6.9 Based on this crude measure the economic benefits of the 5.6 ha of BMV land to non-BMV land would be around £1,200 per annum (£1,148 - £1,243 based on 2026 budgets). Hence the economic benefits of a land parcel of this size are limited.

Theoretical Other Benefits

- 6.10 The NPPF sets out that the economic and other benefit of BMV should be recognised. It does not expand further on what those “other benefits” might be.
- 6.11 The report to Committee sets out that the availability of land for food production is an important consideration, as set out in NPPF footnote 65. As stated earlier, this is not stated in footnote 65. It was in footnote 62 of the December 2023 NPPF but was deleted, following consultation, in the December 2024 revision to the NPPF.
- 6.12 In terms of other benefits, food production increases can similarly be crudely estimated. The food production benefits of this parcel of land, if all grown for winter wheat, would be 6.7 tonnes of wheat (5.6 ha x 1.2 t/ha). In 2024, for context, the UK produced about 19 million tonnes of cereals (Cereals and oilseed production in the UK 2024, Defra, 7 January 2025), of which over 11 million tonnes was wheat.
- 6.13 The landowner has supplied recent yield data, and the field crops below the “high” yield, and therefore the above estimate overstates the actual benefits.

Soils

- 6.14 The putative Reason for Refusal 5 refers to NPPF paragraph 187 and the report to Committee refers to 187 a). This notes that planning decisions should seek to protect soils in a manner commensurate with their statutory status or identified quality in the development plan. The soils on the Appeal Site have no statutory status, and soil as a resource has no identified quality in the development plan. There can, therefore, be no conflict with the NPPF on this matter.

Conclusion

- 6.15 Therefore, for development management purposes, the soils, economic and the other benefits of BMV land have been recognised and quantified, and these will need to be considered in the overall planning balance.

7 SIGNIFICANT DEVELOPMENT AND LAND QUALITY CONSIDERATIONS

- 7.1 The report to Committee states in 8.23 that the development “**would likely lead to a significant permanent loss of BMV agricultural land**”. It states in 8.22 that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality should be preferred.
- 7.2 Firstly it is to be noted that paragraph 188 is a plan-making paragraph, not a decision-taking paragraph. Second it is not a paragraph referenced in putative Reason for Refusal 5, whereas paragraph 187 is.
- 7.3 Nevertheless, for completeness, I address the issues in this evidence as follows:
- (i) is this “significant development” of agricultural land;
 - (ii) if so, is poorer quality land available?

Significant Development

- 7.4 Footnote 65 to paragraph 188 of the NPPF considers whether poorer quality land is available. This footnote is to paragraph 188, which is a plan making policy paragraph. Setting that aside, the trigger for an assessment of poorer quality land is that the proposal involves “**significant development of agricultural land**”. “**Significant Development**” is not defined in the NPPF. One threshold for determination of what is significant is the threshold for consultation with Natural England, which is set at the loss of 20 ha or more of BMV land (as can be seen in the TIN049 in **Appendix KCC2**). This has been the threshold for consultation with MAFF since 1987.
- 7.5 At 5.6 ha the quantum of BMV within the Site is under 30% of the threshold for consultation with Natural England. Therefore, this quantum is not “significant development”.
- 7.6 Consultation thresholds are not a definition of significance, but are a good indicator. Other documents provide indicators too.
- 7.7 The “Guide to assessing development proposals on agricultural land” (Natural England, February 2021) (**Appendix KCC4**) does not define a threshold but does provide some guidance. This adds to our view that 20 ha is a reasonable threshold for defining what is significant development:
- paragraph 6 states “**you should take account of smaller losses (under 20ha) if they are significant when making your decision**”, which suggests that losses of

under 20ha would not be significant unless there are particular local circumstances. What those particular local circumstances are, is not defined but it would be reasonable to consider that the loss of 20 ha may be significant in an area where BMV land is rare, for example; and

- paragraph 7.1 states that you can use Natural England's chargeable discretionary advice system "**if your proposal is large, for example 20ha or more, and requires more detailed advice**". The definition of large as being more than 20ha suggests that a site under 20ha is considered small, and hence, not significant.

7.8 Amongst many appeal decisions relating to agricultural land, the following three decisions are of particular assistance on the level of weight accorded to loss of BMV – on sites of larger or comparable scales to the appeal site:

- (i) 3326538 (21 February 2024), Land at Twigworth [CD 6.4.1]. I include this because, at 4.2 ha, the site is similarly-sized to the Appeal Site. In paragraphs 26 to 29 the Inspector concludes that the loss was not significant and attracts "**little weight**" (paragraph 29);
- (ii) 3339126 (23 August 2024), Land at Haddenham [CD 6.4.2], included because it was also similarly-sized at 4.8 ha BMV. Paragraphs 26 to 28 address the BMV issue. Paragraph 28 concludes that "**the loss would be relatively small and not significant**" and no conflict with the Local Plan;
- (iii) 3350529 (11 February 2025), Sutton in Ashfield [CD 6.4.3]. I include this site, which contained 19.2 ha of Subgrade 3a, because the Inspector referenced the insignificant economic benefits in paragraph 32 and concluded that very little economic harm would materialise (paragraph 33). Overall he gave the loss of 19.2 ha of BMV "**limited weight**" (paragraph 95).

7.9 In my opinion this is not "significant development" of agricultural land. Consequently, in plan-making, and within a policy that is not referred to in the Council's putative Reason for Refusal 5, the requirement to consider poorer quality land in preference is not triggered.

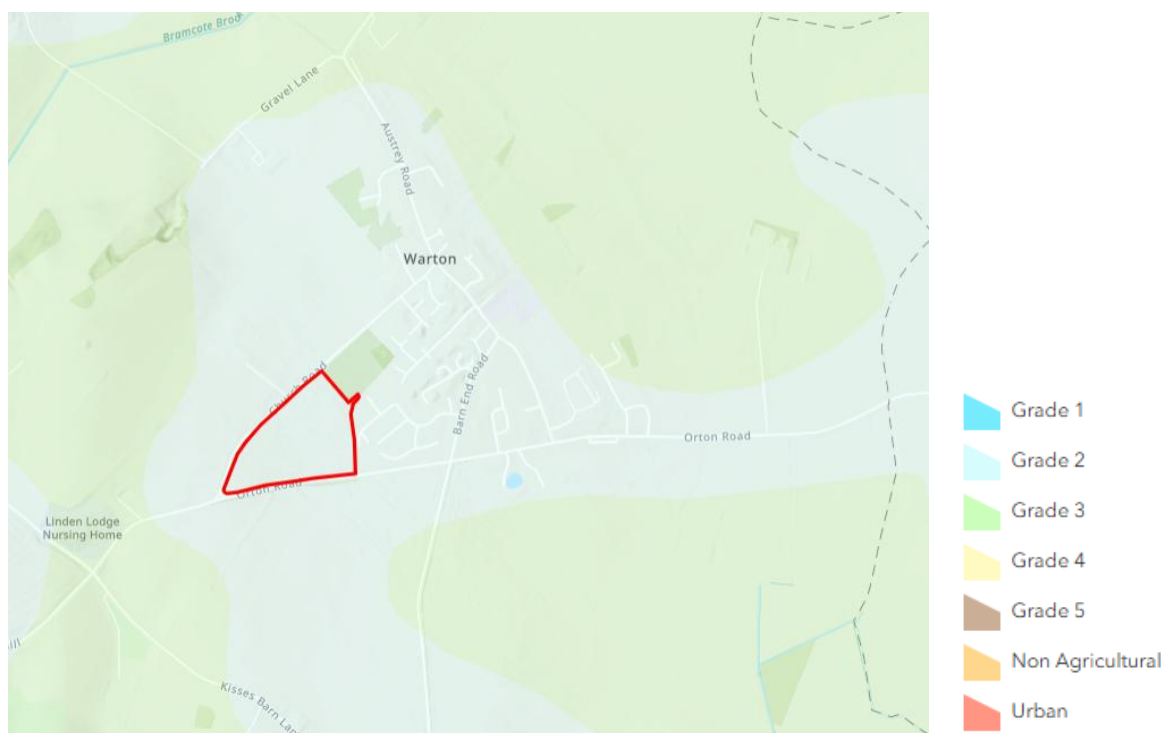
Is Poorer Quality Land Available?

7.10 For completeness, I consider whether poorer quality land is available around the settlement and how the Council has considered this locally.

7.11 The provisional ALC maps published at a 1:250,000 scale in the 1970s (and reprinted by Natural England in 2010) provide only an indication, and are not reliable for site-specific use (as advised by Natural England in TIN049, **Appendix KCC2**). They have nevertheless been digitised and so can be reviewed at a site-specific level.

- 7.12 The Appeal Site is shown edged red on the digitised map at Insert 4 below as Grade 2. It will be noted that most of the land around the village is similarly Grade 2.

Insert 4: Provisional ALC Grade, with Site Indicated



- 7.13 The “provisional” ALC maps identify the area and proportion of land by ALC grade in the district, compared to England, as follows.

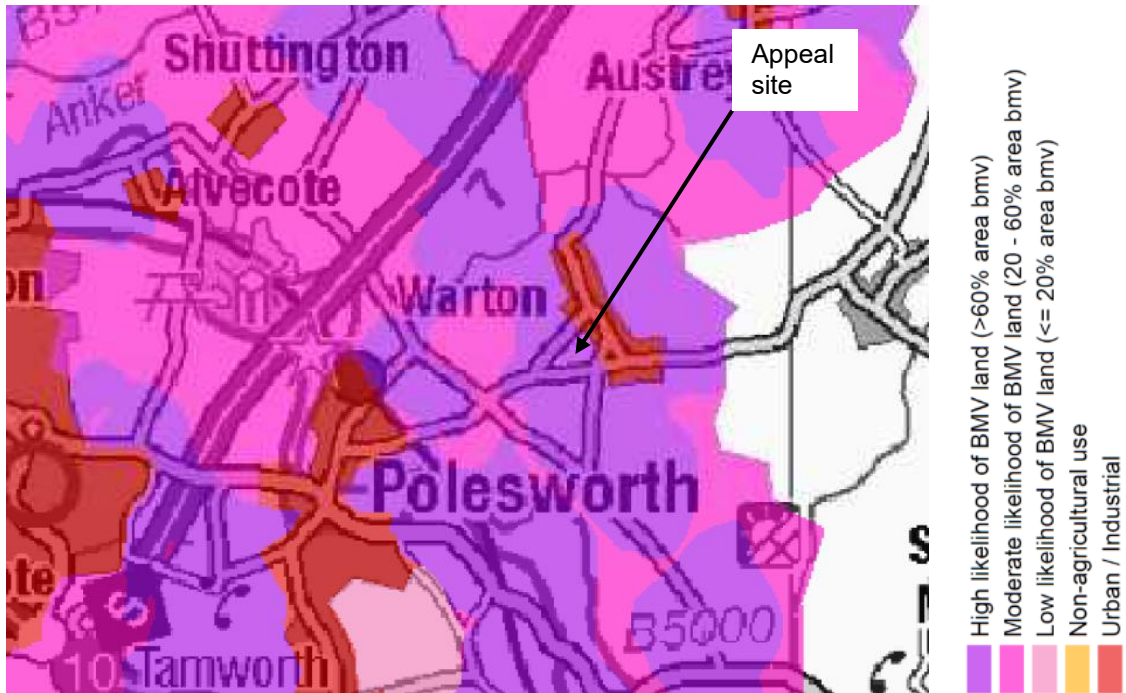
Table 3: Proportion of Land by ALC Grade

ALC Grade	England		North Warwickshire	
	Hectares	%	Hectares	%
1	354,562	2.7	105	0.4
2	1,848,874	14.2	5,610	19.7
3	6,290,210	48.2	19,136	67.3
4	1,839,581	14.1	2,009	7.1
5	1,100,305	8.4	0	0
Non-Ag	655,856	5.0	1,108	3.9
Urban	951,424	7.3	459	1.6

- 7.14 The ALC system has been changed since the provisional maps were produced. Natural England, in TIN049, estimate that 42% of agricultural land is of BMV quality under the revised guidelines. This equates to approximately 40% of Grade 3 being Subgrade 3a.
- 7.15 Using that statistic, approximately 49.8% of agricultural land in North Warwickshire is of BMV quality.

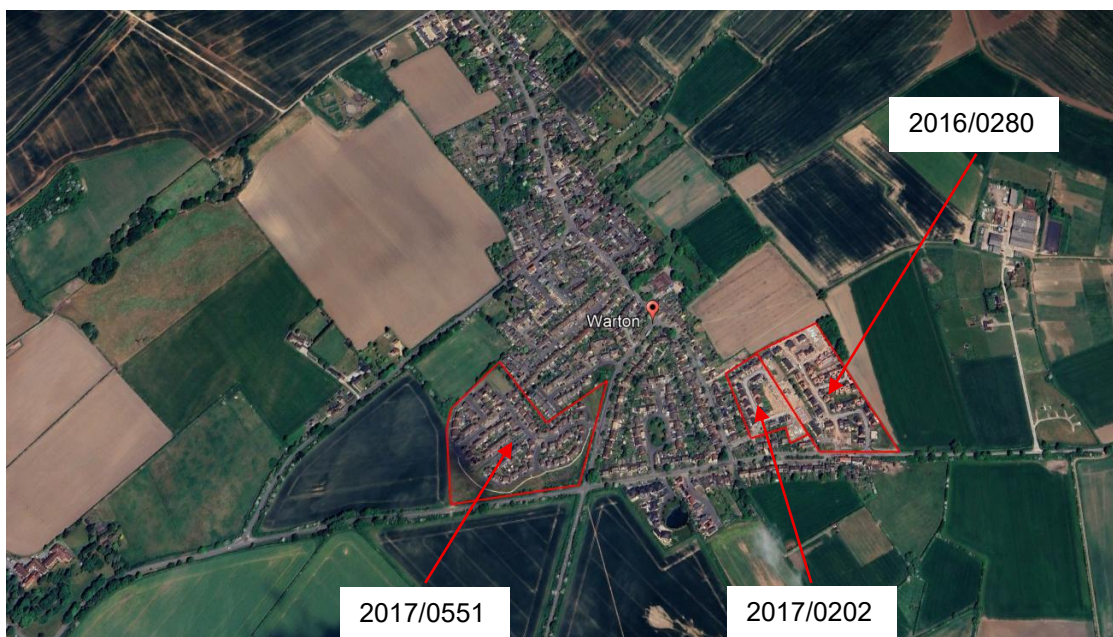
- 7.16 The high quality of land generally is evidenced in maps published by Natural England. In 2017 Natural England published Likelihood of BMV maps, also at a 1:250,000 scale. The Site is shown as falling into a “high likelihood of BMV”, meaning that it is estimated that more than 60% of land is BMV. It should be noted that all land peripheral to the village is similarly predicted as high likelihood.

Insert 5: Likelihood of BMV Map



- 7.17 On published maps, therefore, poorer quality land is not available.
- 7.18 In terms of site-specific ALC data, we have reviewed the following three developments.

Insert 6: Developments Identified



7.19 Application 2016/0280 (28/06/2019) to the east of Warton. It is shown on the provisional ALC map as Grade 2, with Grade 3 at the northern end. Agricultural land quality was not mentioned in the officer report and no ALC survey was provided. The application was recommended for approval.

7.20 Application 2017/0202 (22/11/2018), a smaller site at 1.55 ha, was also shown as Grade 2 on the provisional maps. Part of the site was farm buildings but most was open grassland. No ALC was submitted with the application, and agricultural land quality was not one of the matters reviewed in the officer report, which recommended approval.

7.21 These two sites lie on level ground to the east of the settlement, and are shown below.

Photo 9: Warton Viewed from the East, New Development in the Foreground



7.22 Application 2017/0551 (03/08/2018) was to the immediate east of the Appeal Site and was part of the same field pre-development. The site was surveyed by Soil Environmental Services in July 2017 and identified as Subgrade 3b on droughtiness, so land quality was not an issue. Interestingly, in the officer's report, the following comment was made:

"An objector expresses concern that following Brexit land in agricultural production should be retained for food self sufficiency. There is no national or local policy that has this objective".

7.23 It is evident that agricultural land quality of the provisional Grade 2 land to the east of the village was not a constraint to development.

7.24 It is recognised that the ALC for the 2017/0551 application, which at the time was part of the same arable field, found that area to be Subgrade 3b. It is hard to reconcile how half of the same field could be so different, but as that land has now been developed it is not possible to carry out any checks.

Conclusion

- 7.25 The Appeal Site is not “significant development” of agricultural land in terms of footnote 65 of the NPPF, which is in any event not a policy identified in the putative Reason for Refusal.
- 7.26 Had this been significant development, and had this been a policy the Council had identified as one not complied with, then there is no evidence of poorer quality land being available. The published maps show that the peripheral land is mostly Grade 2 with a high likelihood of being of BMV quality.
- 7.27 Therefore had the NPPF paragraph 188 been identified in the Reason for Refusal, because this is not significant development of agricultural land and in any event poorer quality land is not obviously available, the appeal proposal is compliant with the policy.

8 SUMMARY AND CONCLUSIONS

- 8.1 The appeal is the result of non-determination. However the Council has provided putative Reasons for Refusal. This evidence addresses Reason No 5.
- 8.2 Reason 5 alleges conflict with Local Plan policy LP1 and NPPF paragraph 187.
- 8.3 LP1 is a general sustainable development policy that does not mention agricultural land. It is evident that the proposals are not in conflict with this policy.
- 8.4 The NPPF paragraph 187 a) refers to protected soils, and this part of the NPPF was quoted by the case officer. There is, however, no analysis of soils and no evidence that the soils are of an identified quality in the development plan, so it is evident that the proposals are not in conflict with this part of the NPPF.
- 8.5 The NPPF paragraph 187 b) refers to decisions recognising the economic and other benefits of BMV land. There is no analysis or evidence in the officer's report to Committee as to why there is conflict with this part of the policy. The evidence is, nevertheless, set out in this Proof. The economic benefits and food production benefits are minimal.
- 8.6 The report to Committee analyses NPPF paragraph 188 and alleges conflict. However this did not translate into identifying paragraph 188 in the Reason for Refusal.
- 8.7 That notwithstanding, the Site is not "significant development" and, were it part of the Council's case, footnote 65 is not triggered. In any event, there is no evidence that poorer quality land is available around Warton, which is all shown to be Grade 2 on the provisional ALC maps, and >60% BMV on the Likelihood of BMV maps.
- 8.8 Whilst not part of the Reason for Refusal, the report to Committee advised Councillors that the availability of land for food production is now an important part of Government policy. However the policy the officer quoted is not part of policy in the NPPF, as it was deleted in December 2024.

Conclusions

- 8.9 The weight to be accorded to the loss of land of BMV quality will be a matter for the decision taker.
- 8.10 It is, however, evident that the appeal proposals do not conflict with the development plan or with national policy.



Greenacres Barn, Stoke Common Lane, Purton Stoke, Swindon, Wiltshire SN5 4LL
Telephone: 01793 771333 • Email: info@kernon.co.uk • Website: www.kernon.co.uk

